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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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Federal Communications Commission
Office of Secretary

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In the Matter of)

Implementation of Section 304 of the)
Telecommunications Act of 1996)

CS Docket No. 97-80

Commercial Availability of)
Navigation Devices)

REPLY COMMENTS OF AMERITECH NEW MEDIA, INC.

Ameritech New Media, Inc. ("Ameritech") respectfully offers the following brief reply to the Initial Comments on the Notice of Proposed Rulemaking released in this docket on February 20, 1997 ("NPRM"). The NPRM contains proposals intended to implement Section 629 of the Communications Act,¹ and designed to assure the commercial availability of equipment used to access multichannel video programming from vendors not affiliated with any multichannel video programming distributor ("MVPD").

¹ 47 U.S.C. Section 549; Pub. L. 104-104, 110 Stat. 56 (1996)(the "1996 Act").

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Ameritech made four basic points in its Initial Comments. First, Ameritech argued that the rules adopted in this docket should apply to all MVPDs² and to all equipment that is used to access the video programming provided by MVPDs.³ Second, the focus of the Commission's rules should be on the commercial availability of digital, not analog, equipment.⁴ Third, the Commission should convene an industry group to develop standards which would allow for maximum flexibility for innovation in MVPD services, and promote portability and interoperability of equipment. And, fourth, anti-subsidy rules should not apply to cable systems which are subject to effective competition. There is nothing about the Initial Comments filed by others which changes Ameritech's view on those four basic arguments.

However, one additional point should be emphasized.

² Many others agreed. *See e.g.*, GTE at 4; Motorola at 7-8; Uniden at 2; Zenith at 10; Circuit City at 14; CERC at 13; Time Warner at 22-24; Tandy at 3-4; US West at 9; NCTA at 15.

³ Those rules should be waived from equipment that already is commercially available by any reasonable measure, *e.g.* TVs, VCRs, analog cable converters.

⁴ Even some manufacturers and retailers think this is a good idea. *See e.g.*, CERC at 2; TIA at 9; Circuit City at 5.

I.

THE RULES IN THIS DOCKET SHOULD PROMOTE COMMERCIAL AVAILABILITY OF EQUIPMENT TO ACCESS VIDEO PROGRAMMING; THEY SHOULD NOT IMPEDE THE MVPDs' ABILITY TO DEVELOP INNOVATIVE SERVICES IN RESPONSE TO MARKET DEMAND.

If the Commission's only goal in this docket was to promote commercial availability of equipment to access video programming, it might be inclined simply to require that all such equipment -- including current proprietary equipment -- must be made available at retail.⁵ As a number of other parties note, that kind of requirement, however, would jeopardize program security, and that would be contrary to the plain language of Section 629(b).⁶ This is true because current equipment, and the associated MVPD networks, are not designed to accommodate separation of security functions from the equipment which would suddenly become commercially available under such an approach. In addition, that kind of requirement would do nothing to ensure portability or interoperability. Indeed, that kind of requirement actually would undermine commercial availability because consumers will be reluctant to purchase equipment that does not

⁵ This approach is favored by some. *See e.g.*, TIA at 12-13; Commercial Engineering at 4.

⁶ *See e.g.*, Direct TV at 3, 18; Time Warner at 10-12; US West at 2; Scientific Atlanta at 25.

have at least some degree of portability and interoperability.⁷ None of this would benefit consumers.

Rather than trying to mandate commercial availability in this manner, the Commission's actions here should recognize that the fundamental changes in the service paradigm, especially from the consumer's perspective, need to be addressed in concert. For example, as Motorola notes (at fn. 24), consumers will need to be made aware of their new responsibilities. In addition, as the end-to-end responsibility of the MVPD is broken, trouble shooting techniques and other operating practices will need to be revised.

To maximize the long-term benefit to consumers, the Commission should take steps to promote the general acceptance of industry standards⁸ which will lead naturally to commercial availability of equipment needed to access video programming. The Commission could do this by adopting a

⁷ See Viacom at 11; *but see* Direct TV at 7-8, 12 (inferring that lack of interoperability of DBS equipment is not a problem because the prices for this equipment have fallen).

⁸ Virtually all commentors recognize the statutory and policy reasons for the Commission to promote, rather than prescribe, standards. *See, e.g.*, AHCHTC at 3; CEMA at 9; ITIC/CTIA at 14-15; Echelon at 12; BA/NYNEX at 4; Motorola at 20-28; Pacific at 6; Zenith at 5; Circuit City at 26-28; US West at 12; TIA at 4-6; NCTA at 30-33; Americast 7-8; Scientific Atlanta at 21; General Instruments at 34-36. In addition, several commentors note the common ground formed by voluntary digital standardization efforts to date, which center around MPEG-2 and Dolby AC-3. *See, e.g.*, TIA at 10.

performance rule and setting a date certain for compliance.⁹ For example, the Commission could require the industry to adopt portability/interoperability standards for digital video access equipment¹⁰ within a specified period of time, and then require compatibility of digital networks with those standards within a specific period after such standards are adopted.¹¹ If the Commission adopted a performance rule of this type, and did so “in consultation with appropriate industry standard-setting organizations” as required in Section 629(a), it is likely that such standards would become generally accepted in the marketplace,¹² and provide the “critical mass” necessary to ensure a vibrant, competitive equipment

⁹ While some parties support the concept of a date-specific performance rule (*e.g.*, CERC at 8 and General Instrument at 50), there is disagreement on what should be specified as the objective compliance measure -- adherence to a specific, current standard or a general test for commercial availability. Ameritech submits that the adoption of standards for physical connections and communications protocols, and subsequent network compliance with those standards, is the preferable way to accomplish the goals of Section 629.

¹⁰ The Commission should focus on digital equipment for the reasons Ameritech cited in its Initial Comments at pages 8-10. *See also* Viacom at 18 (citing aggressive rollout schedule for DTV), Echelon at 47 (Commission should move aggressively into the digital era), and AHCHTC at 11 (analog standardization efforts, and subsequent consumer purchase of analog equipment, may undermine consumer incentives to invest in new digital equipment).

¹¹ The time periods selected should reflect the complexity of portability/interoperability issues, the costs of infrastructure design changes, and other relevant considerations.

¹² Once standards are generally accepted, it is unlikely that MVPDs would stray from them and, therefore, the Commission’s rules should “sunset” at the end of this implementation period.

market¹³, as well as ensure compliance by MVPDs on a going-forward basis.

In adopting such standards, however, the Commission should be careful not to impede the MVPD's ability to develop innovative services in response to market demand. The Commission can avoid that pitfall by requiring the adoption of standards for accessing video programming, but not for other non-access-related functions which might be used by a vendor to provide innovative services and thereby differentiate its equipment in the marketplace. Thus, digital access equipment -- *e.g.*, a set-top box -- should be available from MVPDs and other sources. The physical connections and the communication protocols at the network interface should be standardized. In those applications where a device with digital access functionality is integrated with other equipment, *e.g.* built into a television set, a standard network interface port should be required.¹⁴ On the other hand, network-dependent functions, *e.g.* channel mapping, demodulation,

¹³ Availability of equipment from unaffiliated sources should be governed by market forces, not regulation. See *Circuit City*, at 26. Further, as TIA notes (at 13), an MVPD should not be penalized if, due to market forces, no manufacturer or retailer offers equipment that matches the MVPD's equipment, as long as the MVPD's network and equipment comply with the generally accepted standards.

¹⁴ See *e.g.*, BA/NYNEX at 3. This requirement would help ensure that no MVPD service would be inhibited or rendered inaccessible by virtue of an individual manufacturer's design.

and security, should not be standardized under the Commission's rules.¹⁵

Differentiation between these access and non-access functions will help ensure that equipment to access video programming is commercially available from sources unaffiliated with the MVPD but, at the same time, will not impede the MVPD's ability to develop innovative services in response to market demand.

¹⁵ Furthermore, "Look and feel" characteristics of different digital access equipment should be proprietary, as these characteristics form part of the basis for product differentiation among vendors, including MVPDs. *See Americast* at 4; *Pacific* at 3. However, the communications protocol that delivers the information content should be standardized.

II.

CONCLUSION

The Commission's goal in this proceeding is to adopt rules which will ensure that equipment used to access multichannel video programming and other services offered over MVPD systems is commercially available from sources other than the MVPD. That is a worthwhile goal and one best achieved in the manner recommended in Ameritech's Initial Comments and in this Reply.

Respectfully submitted,

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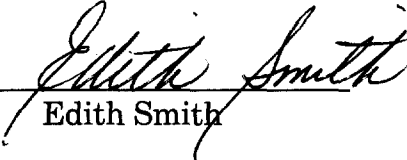
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CERTIFICATE OF SERVICE

I, Edith Smith, do hereby certify that a copy of Reply Comments of Ameritech New Media, Inc. has been served on the parties on the attached service list, via first class mail, postage prepaid, on this 16th day of June, 1997.

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